

By: Rodriguez of Travis

H.B. No. 1925

A BILL TO BE ENTITLED

AN ACT

relating to employer retaliation against employees who seek recovery of unpaid wages and procedures in wage claim hearings conducted by the Texas Workforce Commission.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter B, Chapter 61, Labor Code, is amended by adding Sections 61.021 and 61.022 to read as follows:

Sec. 61.021. EMPLOYER RETALIATION PROHIBITED. An employer may not suspend or terminate the employment of or in any other manner discipline, discriminate against, or retaliate against an employee who in good faith seeks to recover wages owed to the employee by:

(1) filing a complaint with a governmental entity;

(2) seeking or accepting the assistance of a nonprofit organization, an employee rights organization, or an attorney;

(3) exercising or attempting to exercise a right or remedy granted to the employee by a contract, local ordinance or order, or federal or state law; or

(4) filing a wage claim under Subchapter D.

Sec. 61.022. COMPLAINTS REGARDING EMPLOYER RETALIATION.

(a) A person who has reason to believe that an employer has violated Section 61.021 may file a complaint with the commission.

(b) On receipt of a complaint, the commission shall investigate and dispose of the complaint in the same manner as a

1 wage claim under Subchapter D. The commission may incorporate the
2 investigation into any ongoing investigation of an underlying wage
3 claim filed by the employee, if applicable.

4 (c) The commission shall ensure that information regarding
5 the complaint process is available on the commission's Internet
6 website.

7 SECTION 2. Section 61.053(a), Labor Code, is amended to
8 read as follows:

9 (a) If the commission examiner, a wage claim appeal
10 tribunal, or the commission determines that an employer acted in
11 bad faith in not paying wages as required by this chapter, the
12 examiner, tribunal, or commission, in addition to ordering the
13 payment of the wages, shall ~~may~~ assess an administrative penalty
14 against the employer.

15 SECTION 3. Subchapter D, Chapter 61, Labor Code, is amended
16 by adding Section 61.0531 to read as follows:

17 Sec. 61.0531. RETALIATION; DAMAGES. (a) If after an
18 investigation of a complaint under Section 61.022 the commission
19 examiner, a wage claim appeal tribunal, or the commission
20 determines that an employer violated Section 61.021, the examiner,
21 tribunal, or commission shall order the employer to pay to the
22 employee damages in an amount equal to the greater of \$1,000 or the
23 amount of wages owed to the employee.

24 (b) Damages under Subsection (a) are in addition to any
25 payment of wages ordered under this subchapter.

26 SECTION 4. The heading to Section 61.058, Labor Code, is
27 amended to read as follows:

1 Sec. 61.058. HEARING PROCEDURES; PRESUMPTION.

2 SECTION 5. Section 61.058, Labor Code, is amended by
3 amending Subsection (a) and adding Subsections (c) and (d) to read
4 as follows:

5 (a) Except as provided by Subsections (c) and (d), a [A]
6 hearing conducted under this subchapter is subject to the rules and
7 hearings procedures used by the commission in the determination of
8 a claim for unemployment compensation benefits.

9 (c) In a hearing under this subchapter, an employer's
10 failure to comply with Section 62.003 or the recordkeeping
11 requirements of the Fair Labor Standards Act of 1938 (29 U.S.C.
12 Section 201 et seq.) applicable to an employee creates a rebuttable
13 presumption that the employee's hours worked, pay rate, and
14 earnings are equal to those amounts provided in the employee's
15 testimony or records presented at the hearing.

16 (d) A presumption under Subsection (c) may be rebutted by
17 clear and convincing evidence provided by the employer of the
18 employee's hours worked, pay rate, and earnings.

19 SECTION 6. Not later than December 1, 2017, the Texas
20 Workforce Commission shall adopt rules necessary to implement
21 Section 61.022, Labor Code, as added by this Act.

22 SECTION 7. Sections 61.021 and 61.022, Labor Code, as added
23 by this Act, apply only to an adverse employment action that is
24 taken by an employer against an employee on or after the effective
25 date of this Act. An adverse employment action taken before that
26 date is governed by the law in effect on the date the action was
27 taken, and the former law is continued in effect for that purpose.

1 SECTION 8. Section 61.0531, Labor Code, as added by this
2 Act, applies only to conduct that occurs on or after the effective
3 date of this Act. Conduct that occurs before that date is governed
4 by the law in effect on the date the conduct occurred, and the
5 former law is continued in effect for that purpose.

6 SECTION 9. Section 61.058, Labor Code, as amended by this
7 Act, applies only to a hearing that commences on or after the
8 effective date of this Act. A hearing that commences before that
9 date is governed by the law in effect on the date the hearing
10 commenced, and the former law is continued in effect for that
11 purpose.

12 SECTION 10. This Act takes effect September 1, 2017.